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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 2123 of 2003

Petitioner:		Anil Kumar Jain S/o K. C. Jain, aged about 44 years, Sub-Engineer in the office of Rural Engineering Services Division Baikunthpur, District-Koriya, R/o 45-8 Radhika Nagar "Vidyashri Public School Bhawan, Bhilai, District- Durg (C.G.).
	Versus	
Respondents:	1.	State of Chhattisgarh Through the Secretary, Water Resources Department, DKS Bhawan, Raipur (CG)
	2.	The Engineer-in-Chief, Water Resources Department, Civil Lines, Raipur (CG).
	3.	The Collector, Koriya, Baikunthpur District Koriya.
	4.	The Executive Engineer, Rural Engineering Services Dn., Baikunthpur, District. Koriya (CG).

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri Pritinker Diwakar, Senior Advocate with Shri P. R. Patankar, Advocate for the petitioner.

Shri Sumesh Bajaj, Deputy Govt. Advocate for the Respondents.

ORAL ORDER

(1st February, 2006)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. The petitioner was working as Sub Engineer in the office of the Rural Engineering Services, Division Baikunthpur, District-Koria. By order dated 27.2.2003 (Annexure P/3) the petitioner was put under suspension pending departmental enquiry on the allegation of wrong assessment of the works performed under his supervision. The petitioner has filed this petition impugning the

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suspension order dated 27.2.2003. The petitioner has further prayed for quashing of the order dated 25.4.2003 (Annexure P/5) whereby Shri R. K. Jain, Executive Engineer was appointed as Enquiry Officer.

2. Shri Sumesh Bajaj, learned Deputy Govt. Advocate, appearing for the respondents submits that since the enquiry officer has been changed and the petitioner is being paid subsistence allowance as admissible and payable under F. R. 53 of the M.P./C.G. Fundamental Rules i.e. 50% of the basic pay plus admissible dearness allowance, this petition challenging the suspension order may be disposed of, allowing the respondents to conclude the enquiry.

3. In the present case according to the respondents the petitioner was not cooperating with the Enquiry Officer. It appears that the petitioner did not cooperate on account of appointment of Shri R. K. Jain, Executive Engineer as Enquiry Officer. This is also one of the grievance of the petitioner in this petition. The respondents, agreeing with the grievance of the petitioner, have changed the enquiry officer, as such it cannot be held that the petitioner did not cooperate with the enquiry officer and the suspension period extended beyond three months on account of non-cooperation of the petitioner.

4. For the reasons stated above, this Court is of the opinion that the petitioner is entitled to further 25% of the subsistence allowance, in addition to the subsistence allowance he is already getting, during the suspension period.

5. The second prayer of the petitioner regarding order dated 25.4.2003, appointing Shri R. K. Jain, as enquiry officer has

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become infructuous, in view of the fact that new enquiry officer has been appointed.

6. In view of the above stated reasons, the petition is disposed of. However, the respondents are directed to complete the enquiry within a period of two months from the date of receipt/production of a copy of this order in accordance with law. No order as to costs.

Certified copy, as per Rules.

Sd/-
Satish K. Agnihotri
Judge

Thakur